

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

JAKI AKAI XAVIER MAHAMMAD v. STATE OF TENNESSEE

Appeal from the Criminal Court for Davidson County
No. 4003 Cheryl A. Blackburn, Judge

No. M2009-00087-CCA-R3-CO - Filed July 7, 2009

This matter is before the Court upon the State's motion to affirm the judgment of the habeas court by memorandum opinion pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. Upon a review of the record in this case, we are persuaded that the habeas court properly denied the petition for habeas corpus relief, and we conclude this case meets the criteria for affirmance pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. Accordingly, the State's motion is granted, and the judgment of the trial court is affirmed.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed
Pursuant to Rule 20, Rules of the Court of Criminal Appeals

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which DAVID H. WELLES and JERRY L. SMITH, JJ., joined.

Jaki Akai Xavier Mahammad, Nashville, Tennessee, pro se.

Robert E. Cooper, Jr., Attorney General and Reporter; Michael E. Moore, Solicitor General; Deshea Dulany Faughn, Assistant Attorney General; Victor S. Johnson, III, District Attorney General; Bret Gunn, Assistant District Attorney General, for the Appellee, State of Tennessee.

MEMORANDUM OPINION

The Petitioner filed a pro se motion communicating several grievances, which included claims of racial discrimination during the selection of a Morgan County jury and a claim of improper sexual conduct among government employees. The motion requested neither post-conviction nor habeas corpus relief. The habeas court issued an order classifying the motion as a petition for habeas corpus relief and dismissing the petition, citing in part the Petitioner's failure to include a copy of his Morgan County judgment. The habeas court noted also that the Petitioner did not state a

cognizable claim on which habeas corpus relief could be granted. It is from that order that the Petitioner now appeals.

On appeal, the Petitioner asks this Court: (1) to enforce the hate crimes laws and the Tennessee Human Rights Act; (2) to issue a mandamus ordering the habeas court to comply with the law; and (3) to issue him an order of protection from gang violence. The State argues that the Petitioner has not included a judgment for this Court to review and that he has not stated a cognizable ground on which habeas corpus relief may be granted. We agree with the State.

Article I, section 15 of the Tennessee Constitution guarantees the right to seek habeas corpus relief. *See Faulkner v. State*, 226 S.W.3d 358, 361 (Tenn. 2007). Although the right is guaranteed in the Tennessee Constitution, the right is governed by statute. T.C.A. § 29-21-101 (2006) *et seq.* The determination of whether habeas corpus relief should be granted is a question of law and is accordingly given de novo review. *Smith v. Lewis*, 202 S.W.3d 124, 127 (Tenn. 2006); *Hart v. State*, 21 S.W.3d 901, 903 (Tenn. 2000). Although there is no statutory limit preventing a habeas corpus petition, the grounds upon which relief can be granted are very narrow. *Taylor v. State*, 995 S.W.2d 78, 83 (Tenn. 1999). It is the burden of the petitioner to demonstrate by a preponderance of the evidence that “the sentence is void or that the confinement is illegal.” *Wyatt v. State*, 24 S.W.3d 319, 322 (Tenn. 2000). In other words, the very narrow grounds upon which a habeas corpus petition can be based are as follows: (1) a claim there was a void judgment which was facially invalid because the convicting court was without jurisdiction or authority to sentence the defendant; or (2) a claim the defendant’s sentence has expired. *Stephenson v. Carlton*, 28 S.W.3d 910, 911 (Tenn. 2000); *Archer v. State*, 851 S.W.2d 157, 164 (Tenn. 1993). “An illegal sentence, one whose imposition directly contravenes a statute, is considered void and may be set aside at any time.” *May v. Carlton*, 245 S.W.3d 340, 344 (Tenn. 2008) (citing *State v. Burkhardt*, 566 S.W.2d 871, 873 (Tenn. 1978)). In contrast, a voidable judgment is “one that is facially valid and requires the introduction of proof beyond the face of the record or judgment to establish its invalidity.” *Taylor*, 995 S.W.2d at 83; *see State v. Richie*, 20 S.W.3d 624, 633 (Tenn. 2000).

The Petitioner has failed to include a judgment with his petition for relief. This Court cannot grant habeas corpus relief, which may be granted on very narrow grounds, without the judgment. Additionally, the Petitioner is not alleging claims that his judgment is void on its face or that his sentence has expired, which are the only two grounds on which habeas relief may be granted. *See Stephenson*, 28 S.W.3d at 911. Thus, we conclude the habeas court properly denied the Petitioner habeas corpus relief. Accordingly, the State’s motion is granted, and the judgment of the trial court is affirmed in accordance to Rule 20, Rules of the Court of Criminal Appeals.

ROBERT W. WEDEMEYER, JUDGE